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In re Application of :
Zhong-Ru GAN :
Serial Nos.: 09/423,100 and 09/423,107 :
PCT No.: PCT/CN98/00052 : COMMUNICATION
Int. Filing Date: 31 March 1998 :
Priority Date: None :
Attorney's Docket Nos.: 20700-703 & 20700-702 :
For: CHIMERIC PROTEIN CONTAINING :
AN INTERMOLECULAR CHAPERONE- :
LIKE SEQUENCE AND ITS :
APPLICATION TO INSULIN :
PRODUCTION :

This application is before the PCT Legal Office for consideration of issues arising under 35 U.S.C. 371.

BACKGROUND

On 31 March 1998, applicant filed international application PCT/CN/00052. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 07 October 1999. Accordingly, the twenty-month period for paying the basic national fee to enter the national stage in the United States expired at midnight on 01 December 1999.

On 29 October 1999, applicant filed two sets of papers for entry into the national stage in the United States under 35 U.S.C. 371 bearing Attorney Docket Numbers 20700-702 and 20700-703. Filed with the Transmittal Letters were, inter alia, the requisite basic national fee

as required under 35 U.S.C. 371(c)(1), a purported copy of the International Application¹ and a separate Preliminary Amendment for each set cancelling all 77 claims in the international application and substituting them with completely different claims. The papers bearing Attorney Docket Number 20700-703 were assigned application number 09/423,100 and those bearing Attorney Docket Number 20700-702 were given serial number 09/423,107 for identification purposes.

DISCUSSION

As is evident from the above recited facts, applicant submitted two sets of papers to enter the national stage for the same international application. The end result for an international application designating the United States of America is a single U.S. national stage application. Therefore, the submission of two sets of national stage papers to enter the United States was improper.

Applicant is hereby notified that the set of papers bearing Attorney Docket Number 20700-703 and containing amended claims 78-130 has been assigned serial number 09/423,100 and will be processed as the national stage application of PCT/CN98/00052.

The papers bearing Attorney Docket No. 20700-702, including the preliminary amendment, will merely be placed in the 09/423,100 application file with no further action thereon. Applicant may file a preliminary amendment adding claims corresponding to unentered claims 78-137 if so desired. It should also be noted that amended claims 78-137 in papers bearing Attorney Docket Number 20700-702 have invalid dependency since claims 79-97 depend on deleted claim 77.

CONCLUSION

In view of the above discussion, the papers filed in 09/423,107 have been placed in application number 09/423,100.

The fees associated with serial number 09/423,107, consisting of \$970 basic national fee (fee code 960), \$130 surcharge for submitting an oath after 20 months (fee code 154) and \$720 fee for extra claims (fee code 966) will be refunded to Deposit Account No. 23-2415.


The specification filed by applicant is not a true copy of the originally filed international application. For example, the published application does not include a "table of contents" at page 1 thereof. The copy of the international application provided by WIPO will be used in national stage processing and the copy provided by applicant will not be entered.

Applicant should use application number 09/423,100 in all future communications with the United States Patent and Trademark Office in regards to the U.S. national stage of international application PCT/CN98/00052.

This application is being returned to the DO/EO for further processing, including the refund of \$1820 to Deposit Account No. 23-2415.



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